

Roland B. Durocher  
HARTELIUS, DUROCHER & WINTER, P.C.  
118 6<sup>th</sup> St. South  
P.O. Box 1629  
Great Falls, MT 59403-1629  
(406) 727-4020  
rdurocher@mtlawyers.net  
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

Darren Dominic Bradley,	)	Cause No.
	)	
Plaintiff,	)	<b>COMPLAINT</b>
	)	
-vs-	)	
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

---

Plaintiff, through his attorneys, alleges:

I. JURISDICTION & VENUE:

1. Plaintiff Darren Dominic Bradley is a citizen and resident of the Rocky Boy Indian Reservation, Montana.

2. This Court has jurisdiction over this case pursuant to the Federal Tort

Claims Act, 28 U.S.C. 2671, et seq., in that the claim arises from the Government's conduct in providing health care services at Chippewa Cree Health Center/Rocky Boy Clinic (CCHC), on the Rocky Boy Reservation in Montana. CCHC is an Indian Health Services (IHS)-funded facility operated by the United States. The negligent acts and omissions that are the subject of this action were committed by the Government's agents and employees while acting within the course and scope of their employment. This Court has exclusive jurisdiction over tort claims brought against the United States pursuant to 28 U.S.C. § 1346(b).

## II. COUNT I, NEGLIGENCE AS TO EYE DROPS:

3. The Plaintiff's claim was filed in writing with the United States on February 25, 2015, with additional supporting documentation to complete the claim being submitted June 1, 2015. The United States has not responded, and more than six (6) months has elapsed. Accordingly, Plaintiff has appropriately exhausted his administrative remedies.

4. The acts and omissions giving rise to this claim occurred in Hill County, Montana, which is within the Great Falls Division. Venue is proper in the Great Falls Division pursuant to Local Rule 3.2(b).

4. On or about March 12, 2013, Plaintiff had cataract surgery on his left eye. Following the procedure, he was prescribed eye drop medication. The prescription was filled at the CCHC pharmacy. The medication dispensed was not the correct

medication, and the incorrect drops, when used by Plaintiff, caused injury and damages to Plaintiff.

5. The dispensing of the incorrect medication was negligent, and his care by the pharmacist who provided the incorrect medication was below the standard of care.

6. The negligence of the Defendant's agents or employees, in particular the pharmacist who dispensed the incorrect medication, was the cause of injury to Plaintiff, or a substantial factor in bringing about the injury and damages.

7. As a result of his injuries, Plaintiff suffered damages, including, but not limited to, physical pain and suffering, mental and emotional pain and suffering and distress, loss of enjoyment of life, lost earning capacity, and the failure of his eye surgery.

### III. COUNT II, NEGLIGENCE AS TO METHOTREXATE:

8. The Plaintiff's claim was filed in writing with the United States on February 25, 2015, with additional supporting documentation to complete the claim being submitted June 1, 2015. The United States has not responded, and more than six (6) months has elapsed. Accordingly, Plaintiff has appropriately exhausted his administrative remedies.

4. The acts and omissions giving rise to this claim occurred in Hill County, Montana, which is within the Great Falls Division. Venue is proper in the Great Falls Division pursuant to Local Rule 3.2(b).

9. On or about July 3, 2013, Plaintiff was prescribed medication by a health care provider at the CCHC. It is believed and therefore alleged that the drug at issue was methotrexate.

10. The prescribed medication was intended to be taken weekly. However, the prescription was filled with instructions to take it daily, with sufficient pills dispensed to take it daily. It is believed and therefore alleged that the proper and intended dose of methotrexate was 15 mg once per week. It is believed and therefore alleged that the medication dispensed was 168 pills, 2.5 mg each, with instructions to take three pills twice per day (the equivalent of 15 mg per day).

11. Plaintiff followed the instructions given on his prescription, which caused him to overdose on the medication. He was injured and incurred damages as a result of the excessive amount of medication he took per the instructions given to him.

12. Plaintiff had the right to rely on the instructions given on his prescription, and was not at fault for the overdose or a cause of his injuries or damages.

13. The cause of the excessive dose being given was either due to an error by the prescribing health care provider, a negligent systemic failure of the CCHC, or an error by the pharmacy in dispensing the medication. Regardless of the cause, the dispensing of the excessive amount of medication, with instructions to take an excessive amount of the medication, was negligent conduct by employees of Defendant, and his care at CCHC was below the standard of care.

14. The negligence of the Defendant's agents or employees in providing the incorrect dose of medication and/or incorrect instructions for taking the medication, was the cause of injury to Plaintiff, or a substantial factor in bringing about the injury and damages.

15. As a result of his injuries, Plaintiff suffered damages, including, but not limited to, physical pain and suffering, mental and emotional pain and suffering and distress, loss of enjoyment of life, lost earning capacity, and the failure of his eye surgery.

WHEREFORE, PLAINTIFF PRAYS:

1. For an award of special and general damages for all;
2. For costs; and,
3. For all other relief the Court deems appropriate.

Dated this 19th day of January, 2016.

/s/ Roland B. Durocher  
HARTELIUS, DUROCHER & WINTER, P.C.